

Introduced by Senator Burton

February 20, 2003

An act to amend Section 23104.2 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 621, as introduced, Burton. Alcoholic beverage control: licensees: returns.

Except as otherwise specified, a retail licensee is permitted to return beer to the wholesaler or manufacturer from whom the retail licensee purchases the beer, if various conditions are satisfied, and receive an identical quantity and brand of beer as an exchange or, if the order was incorrect, it may be corrected. A credit memorandum may be issued instead of the exchange if the return and corrections are completed within 15 days from the date that the beer was delivered to the retail licensee.

This bill would permit the return and corrections to be completed by the next business day following the 15th day from the date that the beer was delivered if the 15th day falls on a Saturday, Sunday, or legal holiday.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 23104.2 of the Business and Professions
- 2 Code is amended to read:
- 3 23104.2. (a) Subject to the exceptions specified in
- 4 subdivision (b), a retail licensee may return beer to the wholesaler

1 or manufacturer from whom the retail licensee purchased the beer,
2 or any successor thereto, and the wholesaler, manufacturer, or
3 successor thereto may accept that return if the beer is returned in
4 exchange for the identical quantity and brand of beer. No
5 wholesaler or manufacturer, or any successor thereto, shall accept
6 the return of any beer from a retail licensee except when the beer
7 delivered was not the brand or size container ordered by the retail
8 licensee or the amount delivered was other than the amount
9 ordered, in which case the order may be corrected by the
10 wholesaler or manufacturer who sold the beer, or any successor
11 thereto. If a package had been broken or otherwise damaged prior
12 to or at the time of actual delivery, a credit memorandum may be
13 issued for the returned package by the wholesaler or manufacturer
14 who sold the beer, or any successor thereto, in lieu of exchange for
15 an identical package when the return and corrections are
16 completed within 15 days from the date the beer was delivered to
17 the retail licensee. *If the 15th day from the date the beer was*
18 *delivered falls on a Saturday, Sunday, or legal holiday, the return*
19 *and corrections shall be completed by the next business day*
20 *following the 15th day.*

21 (b) Notwithstanding subdivision (a), a wholesaler or
22 manufacturer, or any successor thereto, may accept the return of
23 beer purchased from that wholesaler, manufacturer, or successor
24 thereto, as follows:

25 (1) (A) From a seasonal or temporary licensee if at the
26 termination of the period of the license the seasonal or temporary
27 licensee has beer remaining unsold, or from an annual licensee
28 operating on a temporary basis if at the termination of the
29 temporary period the annual licensee has beer remaining unsold.

30 (B) For purposes of subparagraph (A), an annual licensee shall
31 be considered to be operating on a temporary basis if he or she
32 operates at seasonal resorts, including summer and winter resorts,
33 or at sporting or entertainment facilities, including racetracks,
34 arenas, concert halls, and convention centers. Temporary status
35 shall be deemed terminated when operations cease for 15 days or
36 more. No wholesaler or manufacturer, or successor thereto, shall
37 accept the return of beer from an annual licensee considered to be
38 operating on a temporary basis unless the licensee notifies that
39 wholesaler or manufacturer, or successor thereto, within 15 days
40 of the date the licensee's operations ceased.

(2) (A) Subject to subparagraph (B), a wholesaler or manufacturer, or any successor thereto, may, with department approval, accept the return of a brand of beer discontinued in a California market area or a seasonal brand of beer from a retail licensee, provided that the beer is exchanged for a quantity of beer of a brand produced or sold by the same manufacturer with a value no greater than the original sales price to the retail licensee of the returned beer. For purposes of this subparagraph, “seasonal brand of beer” means a brand of beer, as defined in Section 23006, that is brewed by a manufacturer to commemorate a specific holiday season and is so identified by appropriate product packaging and labeling.

(B) A discontinued brand of beer may not be reintroduced for a period of 12 months in the same California market area in which a return and exchange of that beer as described in subparagraph (A) has taken place. A seasonal brand of beer may not be reintroduced for a period of six months in the same California market area in which a return and exchange of that beer as described in subparagraph (A) has taken place.

(c) Notwithstanding subdivision (a), a wholesaler or manufacturer, or any successor thereto, may accept the return of beer purchased from that wholesaler or manufacturer, or any successor thereto, by the holder of a retail license following the revocation of, suspension of, voluntary surrender of, or failure to renew the retail license.

(d) A wholesaler or manufacturer, or any successor thereto, may credit the account of the retailer identified in subdivision (c) in an amount not to exceed the original sales price to the retailer of the returned beer, provided that the beer has been paid for in full.

